

JCT.22614

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**TAMICA WARD,
Plaintiff,**

V.

**DONALD BRYANT, JOHN
CHRISTNER TRUCKING, LLC, and
THREE DIAMOND LEASING, LLC,
Defendants.**

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§

Civil Action No. _____

DEFENDANTS' INDEX OF DOCUMENTS

The following Exhibits are relied upon and incorporated by reference in Defendants'

Joint Notice of Removal:

1. State Court Docket Sheet (Register of Actions).
2. Plaintiff's Original Petition filed September 22, 2015.
3. Civil Case Information Sheet filed September 22, 2015.
4. Defendants' Original Answer filed on October 15, 2015.

Respectfully submitted,

**FLETCHER, FARLEY
SHIPMAN & SALINAS, L.L.P**

/s/ Fernando P. Arias

FERNANDO P. ARIAS

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9201 N. Central Expressway, Suite 600

Dallas, Texas 75231

214-987-9600

214-987-9866 fax

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that on October 19, 2015, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all counsel of record, including the following counsel:

Zachary D. Herbert
Amy K. Witherite
EBERSTEIN & WITHERITE, LLP
3100 Monticello Avenue, Suite 500
Dallas, Texas 75205

ATTORNEYS FOR PLAINTIFF

/s/ Fernando P. Arias

FERNANDO P. ARIAS

EXHIBIT

1

REGISTER OF ACTIONS**CASE No. DC-15-11678****TAMICA WARD vs. DONALD BRYANT, et al**§
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§
§
§Case Type: **MOTOR VEHICLE ACCIDENT**Date Filed: **09/22/2015**Location: **160th District Court**

PARTY INFORMATION

DEFENDANT BRYANT, DONALD**Lead Attorneys****DEFENDANT JOHN CHRISTNER TRUCKING, LLC****DEFENDANT THREE DIAMOND LEASING, LLC****PLAINTIFF WARD, TAMICA****ZACHARY D HERBERT***Retained*

214-378-6665(W)

EVENTS & ORDERS OF THE COURT

OTHER EVENTS AND HEARINGS09/22/2015 **NEW CASE FILED (OCA) - CIVIL**09/22/2015 **ORIGINAL PETITION***Plaintiff's Original Petition*09/22/2015 **JURY DEMAND***Jury Demand*09/22/2015 **CASE FILING COVER SHEET***Civil Cover Sheet*09/22/2015 **ISSUE CITATION**09/29/2015 **CITATION**

BRYANT, DONALD

Unserved

JOHN CHRISTNER TRUCKING, LLC

Unserved

THREE DIAMOND LEASING, LLC

Unserved

FINANCIAL INFORMATION

PLAINTIFF WARD, TAMICA

Total Financial Assessment

341.00

Total Payments and Credits

341.00

Balance Due as of 09/29/2015**0.00**

09/23/2015 Transaction Assessment

341.00

09/23/2015 CREDIT CARD - TEXFILE Receipt # 56665-2015-DCLK
(DC)

WARD, TAMICA

(341.00)

EXHIBIT

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CAUSE NO. DC-15-11678

Angie Avina

TAMICA WARD;

1. **Introduction**
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 3. **Methodology**
 4. **Results**
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IN THE DISTRICT COURT OF

Plaintiff,

VS.

DALLAS COUNTY, TEXAS

**DONALD BRYANT; JOHN CHRISTNER
TRUCKING, LLC; AND THREE
DIAMOND LEASING, LLC;**

Defendants.

JUDICIAL DISTRICT

**PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE,
FIRST SET OF INTERROGATORIES, FIRST REQUEST FOR ADMISSIONS,
FIRST REQUEST FOR PRODUCTION AND REQUEST FOR PRIVILEGE LOG
TO DEFENDANTS**

TO THE HONORABLE COURT:

Plaintiff Tamica Ward; files Plaintiff's Original Petition complaining of Defendants Donald Bryant; John Christner Trucking, LLC; And Three Diamond Leasing, LLC.

I. DISCOVERY CONTROL PLAN

Discovery is intended to be conducted under Level 3 pursuant to Rule 190 of the TEXAS RULES OF CIVIL PROCEDURE.

II. EXPEDITED TRIAL DECLARATION

As required by Rule 47(b), Texas Rules of Civil Procedure, Plaintiff's counsel states that the damages sought are in an amount within the jurisdictional limits of this Court. As required by Rule 47(c), Texas Rules of Civil Procedure, Plaintiff's counsel states that Plaintiff seeks monetary relief of over

\$100,000 but not more than \$200,000. The amount of monetary relief actually awarded, however, will ultimately be determined by a jury. Plaintiff also seeks pre-judgment and post-judgment interest at the highest legal rate.

III. PARTIES

Plaintiff Tamica Ward is an individual resident of Dallas, Dallas County, Texas. Her driver's license number is *****339 and her social security number is ***-**-742.

Defendant Donald Bryant is an individual resident of Lake Havasu, Mohave County, Texas and may be served with process at 3353 Dolphin Dr., Lake Havasu, AZ 86406.

Defendant John Christner Trucking, LLC is a corporation doing business in Sapulpa, Creek County, Texas and may be served with process by serving its registered agent, Darryl A. Christner at 19007 W. Highway 33, Sapulpa, OK 74067.

Defendant Three Diamond Leasing, LLC is a corporation doing business in Sapulpa, Creek County, Texas and may be served with process by serving its registered agent, Darryl A. Christner at 19007 W Highway 33, Sapulpa, OK 74067.

IV. JURISDICTION AND VENUE

The Court has jurisdiction over the controversy because the damages are within the jurisdictional limits of this Honorable Court.

This Court has venue over the parties to this action since the incident complained of herein occurred in Dallas County, Texas. Venue therefore is proper in Dallas County, Texas pursuant to the TEXAS CIVIL PRACTICE & REMEDIES CODE §15.002.

V. FACTS

This lawsuit arises out of a motor vehicle collision that occurred on Saturday, May 3, 2014 at or near the intersection of I-20 and Lancaster within the city limits of Lancaster, Dallas County, Texas. Plaintiff Tamica Ward was operating her vehicle southbound on the I-20 service road. Defendant Donald Bryant was operating his 18-wheeler in front of Ms. Ward in the same lane and heading in the same direction. Defendant Donald Bryant had a red light at the intersection of I-20 and Lancaster. Defendant Donald Bryant backed up his 18-wheeler and collided hard into the front end of Plaintiff's vehicle. As a result of the collision, Plaintiff was injured and continues to suffer injuries and damages from this incident.

VI. CAUSES OF ACTION

A. NEGLIGENCE – DEFENDANT DONALD BRYANT

At the time of the motor vehicle collision, Defendant Donald Bryant was operating his 18-wheeler negligently. Specifically, Defendant had a duty to exercise ordinary care and operate his 18-wheeler reasonably and prudently. Defendant breached that duty in one or more of the following respects:

- a. Defendant failed to keep such proper lookout and attention to the roadway as a person or ordinary prudence would have kept under the same or similar circumstances;
- b. Defendant failed to keep an assured safe distance from Plaintiff's vehicle;
- c. Defendant failed to timely apply the brakes of his 18-wheeler in order to avoid the collision in question;
- d. Defendant failed to safely operate his 18-wheeler.

Each of the above and foregoing acts and omissions, singularly or in combination, constituted the negligence that was the proximate cause of the motor vehicle collision and consequently the injuries and damages of Plaintiff.

B. NEGLIGENCE ENTRUSTMENT – DEFENDANT JOHN CHRISTNER TRUCKING, LLC AND THREE DIAMOND LEASING, LLC

As an additional cause of action, Plaintiff would show that at the time and on the occasion in question, Defendants John Christner Trucking, LLC and Three Diamond Leasing, LLC were the owners of the vehicle driven by Defendant Donald Bryant. Defendants John Christner Trucking, LLC and Three Diamond Leasing, LLC entrusted the vehicle to Defendant Donald Bryant. Defendant Donald Bryant, was a unlicensed, incompetent, and/or reckless and Defendants John Christner Trucking, LLC and Three Diamond Leasing, LLC knew or should have known that Defendant Donald Bryant was unlicensed, incompetent, and/or reckless. Defendant Donald Bryant's negligence on the occasion in question proximately caused the collision.

C. RESPONDEAT SUPERIOR – DEFENDANT JOHN CHRISTNER TRUCKING, LLC

Additionally, Plaintiff would show that at the time and on the occasion complained of, Defendant Donald Bryant was in the course and scope of his employment with Defendant John Christner Trucking, LLC thereby making Defendant John Christner Trucking, LLC liable under the doctrine of *Respondeat Superior*.

D. NEGLIGENCE – DEFENDANT JOHN CHRISTNER TRUCKING, LLC

Defendant John Christner Trucking, LLC failed to properly train and/or supervise Defendant Donald Bryant in order to prevent such accident.

VII. DAMAGES

As a proximate result of Defendants' negligence, Plaintiff suffered extensive injuries and damages. As a result of Plaintiff's injuries, Plaintiff suffered the following damages:

- a. Medical expenses in the past and future;
- b. Physical pain and suffering in the past and future;
- c. Mental anguish in the past and future; and
- d. Physical impairment in the past and future.

VIII. REQUEST FOR DISCLOSURE

Pursuant to Rule 194 of the TEXAS RULES OF CIVIL PROCEDURE Defendants are requested to disclose, within fifty (50) days of service of this request, the information or material described in Rule 194.2 (a)-(l).

IX. DISCOVERY DOCUMENTS

Contemporaneously with this petition, Plaintiff serves to Defendants Plaintiff's First Set of Interrogatories, First Request for Admissions, First Request for Production and Request for Privilege Log to Defendant.

X. INTENT TO USE DEFENDANTS' DOCUMENTS

Plaintiff hereby gives notice of intent to utilize items produced in discovery against the party producing same. The authenticity of such items is self-proven per TRCP 193.7.

XI. JURY TRIAL

Plaintiff demands a trial by jury and includes the appropriate jury fees.

XII. U.S. LIFE TABLES

Notice is hereby given to the Defendants that Plaintiff intends to use the U.S. Life Tables as prepared by the Department of Health and Human Services.

XIII. RELIEF

WHEREFORE, PREMISES CONSIDERED, Plaintiff requests that Defendants be cited to appear and answer herein, and that upon final hearing thereof, Plaintiff recover judgment against Defendants for:

1. Plaintiff's past medical expenses, which are reasonable and customary for the medical care received by Plaintiff;
2. Plaintiff's future medical expenses;
3. Plaintiff's physical pain and suffering in the past and future in an amount to be determined by the jury;
4. Plaintiff's mental anguish in the past and future in an amount to be determined by the jury;

5. Plaintiff's physical impairment in the past and future in an amount to be determined by the jury;
6. Interest on the judgment at the legal rate from the date of judgment;
7. Pre-judgment interest on Plaintiff's damages as allowed by law;
8. All costs of court; and
9. Such other and further relief to which Plaintiff may be justly entitled.

Respectfully submitted,

EBERSTEIN & WITHERITE, LLP

BY: /s/ Zachary D. Herbert

ZACHARY D. HERBERT

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AMY K. WITHERITE

State Bar No. 00788698

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Dallas, Texas 75205

214/378-6665

214/378-6670 (fax)

ATTORNEYS FOR PLAINTIFF

EXHIBIT

3

CIVIL CASE INFORMATION SHEET


DC-15-11678

CAUSE NUMBER (FOR CLERK USE ONLY): COURT (FOR CLERK USE ONLY):

STYLED TAMICA WARD V. DONALD BRYANT, ET AL.

(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing.

| | | | | | |
|--|--|--|-------------------|---|--|
| 1. Contact information for person completing case information sheet: Name: Zachary D. Herbert Email: zherbert@ewlawyers.com Address: 3100 Monticello Ave., #500 Telephone: 214-378-6665 City/State/Zip: Dallas TX 75205 Fax: 214-378-6670 Signature:  State Bar No: 24069908 | | Names of parties in case: Plaintiff(s)/Petitioner(s): TAMICA WARD Defendant(s)/Respondent(s): DONALD BRYANT; JOHN CHRISTNER TRUCKING, LLC; AND THREE DIAMOND LEASING, LLC [Attach additional page as necessary to list all parties] | | Person or entity completing sheet is: <input checked="" type="checkbox"/> Attorney for Plaintiff/Petitioner <input type="checkbox"/> Pro Se Plaintiff/Petitioner <input type="checkbox"/> Title IV-D Agency <input type="checkbox"/> Other: Additional Parties in Child Support Case: Custodial Parent: Non-Custodial Parent: Presumed Father: | |
| 2. Indicate case type, or identify the most important issue in the case (select only 1): | | | | | |
| Civil | | | Family Law | | |
| Contract <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Other Debt/Contract: Foreclosure <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure <input type="checkbox"/> Franchise <input type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract: | | Injury or Damage <input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation <input type="checkbox"/> Malpractice <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional Liability: <input checked="" type="checkbox"/> Motor Vehicle Accident <input type="checkbox"/> Premises <input type="checkbox"/> Product Liability <input type="checkbox"/> Asbestos/Silica <input type="checkbox"/> Other Product Liability List Product: <input type="checkbox"/> Other Injury or Damage: | | Real Property <input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass to Try Title <input type="checkbox"/> Other Property: Related to Criminal Matters <input type="checkbox"/> Expunction <input type="checkbox"/> Judgment Nisi <input type="checkbox"/> Non-Disclosure <input type="checkbox"/> Seizure/Forfeiture <input type="checkbox"/> Writ of Habeas Corpus—Pre-indictment <input type="checkbox"/> Other: | |
| Employment <input type="checkbox"/> Discrimination <input type="checkbox"/> Retaliation <input type="checkbox"/> Termination <input type="checkbox"/> Workers' Compensation <input type="checkbox"/> Other Employment: | | Other Civil <input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Antitrust/Unfair Competition <input type="checkbox"/> Code Violations <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Intellectual Property | | Marriage Relationship <input type="checkbox"/> Annulment <input type="checkbox"/> Declare Marriage Void Divorce <input type="checkbox"/> With Children <input type="checkbox"/> No Children Other Family Law <input type="checkbox"/> Enforce Foreign Judgment <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Name Change <input type="checkbox"/> Protective Order <input type="checkbox"/> Removal of Disabilities of Minority <input type="checkbox"/> Other: | |
| Tax <input type="checkbox"/> Tax Appraisal <input type="checkbox"/> Tax Delinquency <input type="checkbox"/> Other Tax | | Probate & Mental Health Probate/Wills/Intestate Administration <input type="checkbox"/> Dependent Administration <input type="checkbox"/> Independent Administration <input type="checkbox"/> Other Estate Proceedings <input type="checkbox"/> Guardianship—Adult <input type="checkbox"/> Guardianship—Minor <input type="checkbox"/> Mental Health <input type="checkbox"/> Other: | | | |
| 3. Indicate procedure or remedy, if applicable (may select more than 1): | | | | | |
| <input type="checkbox"/> Appeal from Municipal or Justice Court <input type="checkbox"/> Arbitration-related <input type="checkbox"/> Attachment <input type="checkbox"/> Bill of Review <input type="checkbox"/> Certiorari <input type="checkbox"/> Class Action | | <input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input type="checkbox"/> Post-judgment | | <input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Protective Order <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration <input type="checkbox"/> Temporary Restraining Order/Injunction <input type="checkbox"/> Turnover | |
| 4. Indicate damages sought (do not select if it is a family law case): | | | | | |
| <input type="checkbox"/> Less than \$100,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees <input type="checkbox"/> Less than \$100,000 and non-monetary relief <input checked="" type="checkbox"/> Over \$100,000 but not more than \$200,000 <input type="checkbox"/> Over \$200,000 but not more than \$1,000,000 <input type="checkbox"/> Over \$1,000,000 | | | | | |

EXHIBIT

4

JCT.22614

CAUSE NO. DC-15-11678

| | | |
|-------------------------------------|---|---|
| TAMICA WARD, | § | IN THE DISTRICT COURT |
| Plaintiff, | § | |
| | § | |
| V. | § | |
| | § | DALLAS COUNTY, TEXAS |
| DONALD BRYANT; JOHN | § | |
| CHRISTNER TRUCKING, LLC; AND | § | |
| THREE DIAMOND LEASING, LLC, | § | |
| Defendants. | § | 160th JUDICIAL DISTRICT |

**DEFENDANTS' ORIGINAL ANSWER
TO PLAINTIFF'S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

Defendants, **DONALD BRYANT, JOHN CHRISTNER TRUCKING, LLC,** and **THREE DIAMOND LEASING, LLC,** now come and file their Original Answer to Plaintiff's Original Petition. In support of same, Defendants would respectfully show unto the Court as follows:

**I.
GENERAL DENIAL**

Defendants deny each and every, all and singular, the material allegations contained in Plaintiff's Original Petition and demand strict proof thereof.

II.

Pleading further, in the event that Defendants are found to be liable to Plaintiff under any theory of negligence or other cause of action under law, Defendants assert the doctrine of comparative causation as provided under Texas law, requiring that the harm caused by the negligence of Plaintiff be compared by the trier of fact with the harm, if any, caused by the alleged negligence of these Defendants. For further answer, and in the alternative, Defendants allege that Plaintiff's claims are barred due to the negligence of Plaintiff, which contributed to or

proximately caused the injuries and damages alleged by Plaintiff in Plaintiff's Original Petition. Defendants, therefore, would respectfully request that the trier of fact consider Plaintiff's own negligence in the determination of facts in this matter.

III.

In the event that Defendants are found to be liable to Plaintiff and in the event that Plaintiff's injuries are found to have been caused by the accident made the basis of this lawsuit, Defendants plead that Plaintiff's recovery of medical and health care expenses are limited to the amount actually paid or incurred by or on behalf of Plaintiff. TEXAS CIVIL PRACTICE & REMEDIES CODE §41.015.

IV.

JURY DEMAND

Defendants hereby, in accordance with Rule 216 of the TEXAS RULES OF CIVIL PROCEDURE, demand a trial by jury. Simultaneously with the filing of this demand, a jury fee is being paid on behalf of Defendants.

WHEREFORE, PREMISES CONSIDERED, Defendants, Donald Bryant, John Christner Trucking, LLC, and Three Diamond Leasing, LLC, pray that Plaintiff take nothing by this suit, that Defendants be awarded their costs, and for such other and further relief, both general and special, at law or in equity, to which they may show themselves to be justly entitled.

Respectfully submitted,

**FLETCHER, FARLEY
SHIPMAN & SALINAS, L.L.P**

/s/ Fernando P. Arias

FERNANDO P. ARIAS

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Dallas, Texas 75231

214-987-9600

214-987-9866 fax

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

THIS WILL CERTIFY that a true and correct copy of the foregoing instrument has been mailed, telecopied, hand delivered, or electronically transmitted to all attorneys of record in this cause of action, in compliance with Rule 21a. of the TEXAS RULES OF CIVIL PROCEDURE, on the 15th day of October, 2015.

/s/ Fernando P. Arias

FERNANDO P. ARIAS